

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION**

**FRENCHMAN’S CREEK  
HOMEOWNERS’ ASSOCIATION**

**CASE NO. 6:22-CV-00214**

**VERSUS**

**JUDGE ROBERT SUMMERHAYS**

**ERICA GASCON, ET AL.**

**MAGISTRATE JUDGE HANNA**

**ORDER**

Before the Court is Defendants’ “Memorandum in Opposition to Default Judgment” [ECF No. 17], which the Clerk of Court has construed as a motion to set aside entry of default. Within the filing, Defendants argue Plaintiff’s motion for entry of default is premature, because Defendants’ deadline to oppose Plaintiff’s Motion for Preliminary Injunction has not passed.<sup>1</sup> The deadline for submission of Defendants’ opposition to Plaintiff’s Motion for Preliminary Injunction has no bearing on the motion for entry of default. Rather, a motion for entry of default is appropriate where, after service of the summons and complaint, a defendant fails to timely file a responsive pleading, such as an answer.<sup>2</sup> As Defendants have failed to

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<sup>1</sup> See ECF No. 17. Plaintiff captioned its motion as a “Motion and Order for Default Judgment.” [ECF No. 15]. The Clerk correctly re-characterized the motion as one for entry of default. *See* Fed. R. Civ. P. 55; LR 55.1.

<sup>2</sup> *See* Fed. R. Civ. P. 12. A memorandum in opposition to a motion for preliminary injunction is not a responsive pleading. *See* Fed. R. Civ. P. 7.

demonstrate “good cause” for setting aside the entry of default, Defendants’ motion to set aside entry of default [ECF No. 17] is DENIED.<sup>3</sup>

THUS DONE in Chambers on this 2nd day of June, 2022.

A handwritten signature in black ink, appearing to read 'R. Summerhays', written over a horizontal line.

ROBERT R. SUMMERHAYS  
UNITED STATES DISTRICT JUDGE

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<sup>3</sup> See Fed. R. Civ. P. 55(c).